

Sussex County Community College
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Area: Human Resources
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200.1.1 and 200.5.1 Procedures for Implementation of the Prohibition Against Sexual Harassment (200.1) / Sexual Violence Policy (200.5 Title IX)

PURPOSE OF THE POLICY

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance.

GENERAL STATEMENT FOR IMPLEMENTATION OF THE PROHIBITION AGAINST SEXUAL HARASSMENT (200.1) / SEXUAL VIOLENCE POLICY (200.5 Title IX)

Title IX states: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

SUSSEX COUNTY COMMUNITY COLLEGE

Title IX

200.1.1 / 200.5.1

Procedure for Implementation of the Prohibition against Sexual Harassment / Sexual Violence Policy

Preamble

The U.S. Department of Education's Office for Civil Rights (OCR) enforces, among other statutes, Title IX of the Education Amendments of 1972. Title IX protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

Revision 1 of 9/12/2023

Revision 2 of 05/02/2024

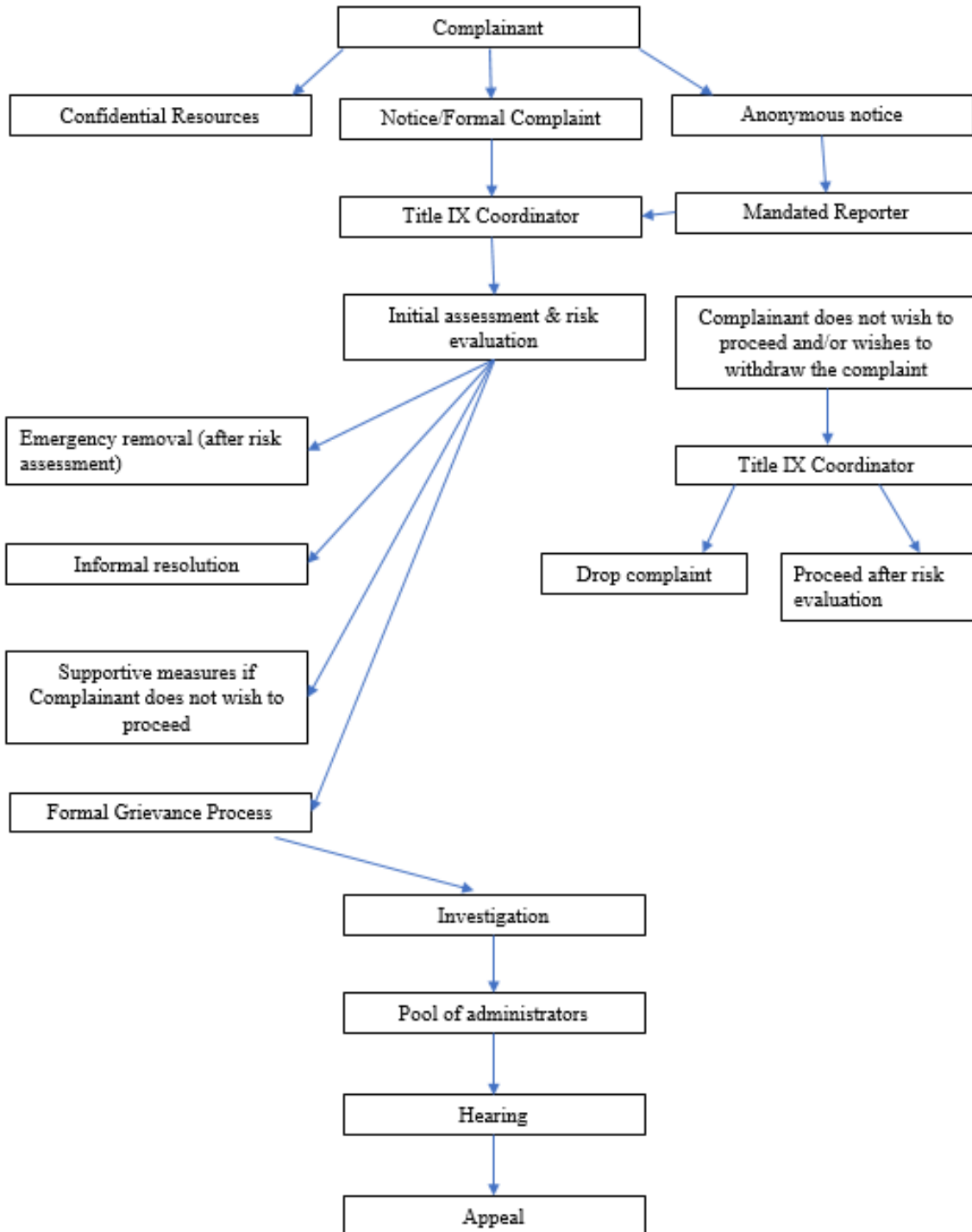
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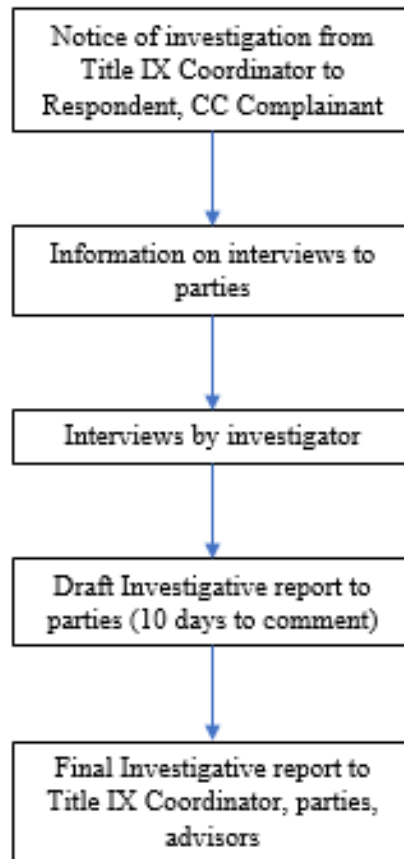
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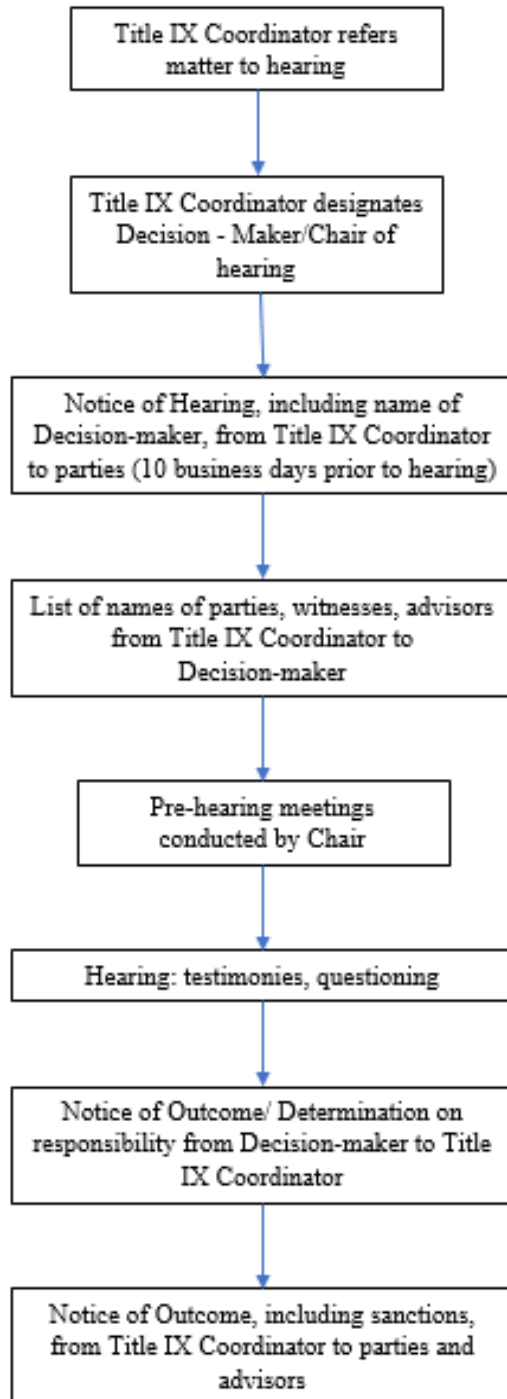
Procedure Diagrams



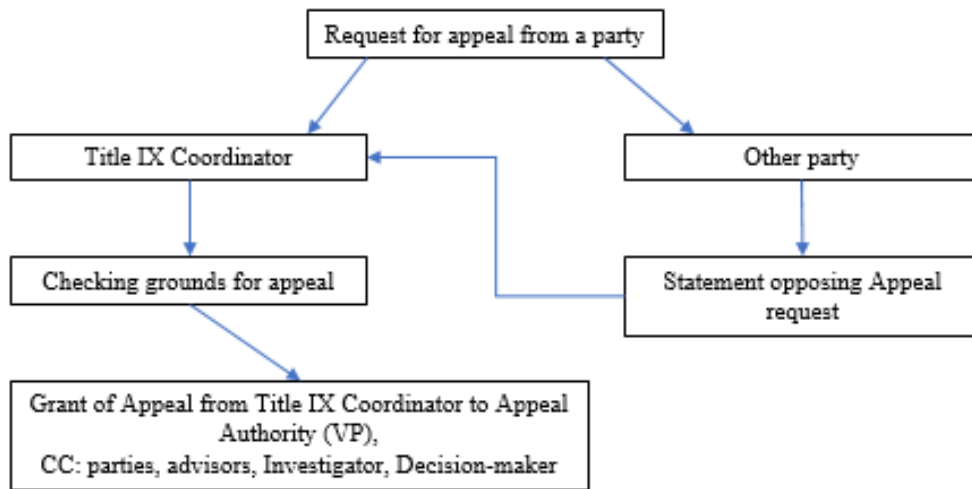
Investigation



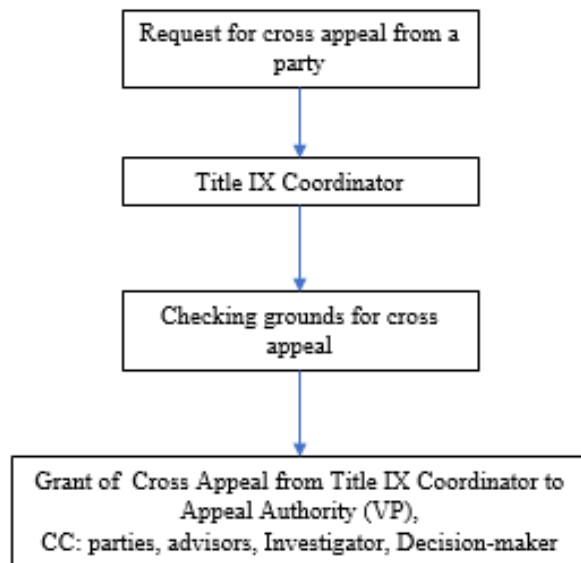
Hearing



Appeal



Cross Appeal



SECTION 1

TITLE IX POLICY AND PROCEDURE

1.1. Definitions

- **Actual knowledge** means notice of sexual harassment or allegations of sexual harassment to the SCCC Title IX Coordinator or any official who has authority to institute corrective measures on behalf of SCCC. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the recipient with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the recipient. “Notice” as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator
- **Advisor** means a person chosen by a party or appointed by SCCC to accompany the party to meetings related to the resolution process, to advise the party on that process, and to represent the party at the hearing, if any. The Advisor may be, but is not required to be, an attorney.
- **Chair** means the member of a hearing Panel designated by the Title IX Coordinator as the Panel Chair.
- **Clery Act** means the federal legislation codified as 34 U.S.C. 12291 that requires colleges to report crimes that occur “on campus” and school safety policies
- **Complainant** means an individual who is alleged to be the victim of conduct that could constitute sexual harassment or discrimination based on sex; or retaliation for engaging in a protected activity.
- **Complaint (formal)** means a document filed/signed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment or discrimination based on sex; or retaliation for engaging in a protected activity, against a respondent and requesting the investigation. At the time of filing of a complaint alleging sexual harassment, the Complainant must be participating in or attempting to participate in an educational program or activity of SCCC.
- **Confidential Resource** means an employee who is not a Mandated Reporter of notice of harassment, discrimination, and/or retaliation. Confidential Resource cannot reveal the information to any third party except when applicable law or a court order requires or permits disclosure of such information.
- **Day** means a business day when SCCC is in normal operation unless indicated as a
- “calendar” day.
- **Decision-maker or Panel** refers to those who have decision-making and sanctioning authority within SCCC’s Formal Grievance process and who cannot be the same person(s) as the Title IX Coordinator or the investigator(s)
- **Education program or activity** means locations, events, or circumstances where SCCC exercises substantial control over both the Complainant and the Respondent and the context in which the sexual harassment or discrimination occurs and also includes any activity conducted by a student organization that is officially recognized by the SCCC.
- **Final Determination:** A conclusion based upon the “Clear and Convincing” standard that the alleged conduct occurred and whether it did or did not violate Policy.

- **Finding:** A conclusion based upon the “Clear and Convincing” standard that the conduct did or did not occur as alleged.
- **Formal Grievance Process** means a method of formal resolution designated by the Title IX Coordinator to address conduct that falls within the policies included below, and which complies with the requirements of 34 CFR Part 106.45. Current Board of Trustee policies and procedures, union contracts and the Student Code of Conduct may be referenced during the formal grievance process.
- **Grievance Process Pool** includes any investigators, hearing officers, appeal officers, hearing facilitators, and Advisors who may perform any or all of these roles (though not at the same time or with respect to the same case).
- **Investigator** means the person or persons charged by SCCC with gathering facts about an alleged violation of the Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence. Title IX Coordinator may also serve as the investigator.
- **Mandated Reporter** means an employee of SCCC who is obligated by Procedure to share knowledge, notice, and/or reports of harassment or discrimination based on sex, and/or retaliation with the Title IX Coordinator.
- **Notice (or Actual knowledge)** means that an employee, student, or third-party informs the Title IX Coordinator or other Official with Authority of the alleged occurrence of harassment or discrimination based on sex, and/or retaliatory conduct.
- **Official with Authority (OWA)** means an employee of SCCC explicitly vested with the responsibility to implement corrective measures for harassment, discrimination, and/or retaliation on behalf of SCCC.
- **Parties** include the Complainant(s) and Respondent(s), collectively.
- **Privacy** means that information related to a complaint will be shared with a limited number of SCCC employees who “need to know” in order to assist in the assessment, investigation, and resolution of the report.
- **Procedure** means 200.1.1/ 200.5.1 Procedure for Implementation of the Prohibition against Sexual Harassment Policy / Sexual Violence Policy set forth in this document.
- **Remedies** are post-finding actions directed to the Complainant and/or the community as mechanisms to address safety, prevent recurrence, and restore access to an educational program at SCCC.
- **Respondent** means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment or discrimination based on sex; or retaliation for engaging in a protected activity.
- **Resolution** means the result of an informal or Formal Grievance Process.
- **Sanction** means a consequence imposed on a Respondent who is found to have violated the Policy.
- **SCCC** means Sussex County Community College.
- **Sexual Harassment** - is conduct on the basis of sex that satisfies one or more of the following:
 - An employee conditioning the provision of an aid, benefit, or service of SCCC on an individual's participation in unwelcome sexual conduct;
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to SCCC’s education program or activity; or
 - “Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v), “dating violence” as

defined in 34 U.S.C. 12291(a)(10), “domestic violence” as defined in 34 U.S.C. 12291(a)(8), or “stalking” as defined in 34 U.S.C. 12291(a)(30).

- **Sexual Assault** – includes the sex offenses of Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape, further defined below.
 - **Rape** is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. This offense includes the rape of both males and females.
 - **Sodomy** is oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
 - **Sexual Assault with an Object** is using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.
 - **Fondling** is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. Fondling is recognized as an element of other sex offenses.
 - **Incest** is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape** is sexual intercourse with a person who is under the statutory age of consent.
- **Dating Violence** - violence committed by a person against another person with whom he/she has been in a social relationship of a romantic or intimate nature. The existence of such a relationship will be determined based on a consideration of following factors:
 - the length of the relationship,
 - the type of relationship,
 - the frequency of interactions between the persons involved in the relationship.
- **Domestic Violence** - a felony or misdemeanor crime of violence committed by a current or former spouse or intimate partner of the victim; by a person with whom the victim shares a child in common; by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner; by a person similarly situated to a spouse of the victim under the domestic or family violence the jurisdiction in which the crime occurred, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.
- **Stalking** - engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - fear for his or her safety or the safety of others or
 - suffer substantial emotional distress.
- **Course of conduct** means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or

interferes with a person's property.

- ***Substantial Emotional Distress*** means significant mental suffering or anguish that may, but does not necessarily require medical or other professional treatment or counseling.
- ***Reasonable Person*** means a reasonable person under similar circumstances and with similar identities to the victim
- ***Affirmative Consent*** - an informed, affirmative, conscious, voluntary, and mutual agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that s/he has the Affirmative Consent of the other participant(s) to engage in the sexual activity. Lack of protest or resistance does not mean consent nor does silence mean consent.
 - Affirmative Consent can be withdrawn or revoked. Affirmative Consent cannot be given by a person who is incapacitated.
 - A person with a medical or mental Disability may also lack the capacity to give consent. Minor is considered incapable of giving legal consent due to age.
- ***Title IX Coordinator*** is at least one official designated by SCCC to ensure compliance with Title IX and SCCC's Title IX program. References to the Coordinator throughout the Procedure may also encompass a designee of the Coordinator for specific tasks.
- ***Title IX Policy (also, Policy)*** means the following policies adopted by SCCC: 200.1 Policy Against Sexual Harassment and 200.5 Title IX: prohibition Against Sexual Violence Policy.
- ***Title IX Rule*** means the regulations adopted August 14, 2020 by the OCR codified as 34 CFR Part 106.
- ***Title IX Team*** means to the Title IX Coordinator, any deputy coordinators, investigators and any member of the Grievance Process Pool.

1.2. Rationale for Policy and Procedure

SCCC is committed to providing a workplace and educational environment, as well as other benefits, program, and activities that are free from discrimination or harassment based on sex. To ensure compliance with the Title IX Rule, and to affirm its commitment to promoting the goals of fairness and equity in all aspects of the educational program or activity, SCCC has adopted policies and procedures that provide a prompt, fair, and impartial process for those involved in an allegation of discrimination or harassment on the basis of sex as defined in this Procedure, and for allegations of retaliation.

1.3. Purpose of the Policy and Scope of Procedure

The core purpose of the Policy and Procedure is the prohibition of all forms of discrimination or harassment based on sex, including exclusion from activities such as admission, athletics, or employment. Sex-based discrimination and harassment encompasses sexual assault, stalking, sexual exploitation, dating violence or domestic violence. When an alleged violation of the Policy is reported, the allegations are subject to resolution using SCCC's grievance and resolution processes as determined by the Title IX Coordinator, and as detailed below.

When the Respondent is a member of the SCCC community, a grievance process may be available regardless of the status of the Complainant, who may or may not be a member of the SCCC community. This community includes, but is not limited to, students, student organizations, faculty,

administrators, staff, and third parties such as guests, visitors, volunteers, and invitees. The procedures below may be applied to incidents or patterns of conduct which may be addressed and investigated in accordance with the Procedure.

Allegations of misconduct or discrimination not meeting the definition of conduct prohibited by the Policy and Procedure will be governed, responded to and adjudicated under the SCCC policy applicable to such misconduct.

The regulations of the Procedure set forth specific and limiting threshold criteria in which SCCC is required to respond to an alleged incident of sexual harassment:

- a) The incident constitutes “sexual harassment” as defined in Section 1.1
- b) SCCC must have “actual knowledge” of an allegation of the incident of sexual harassment as defined in Section 1.1
- c) The conduct must have occurred within SCCC’ own “education program or activity” as defined in Section 1.1
- d) The alleged harassment must occur in the United States.

All four criteria must be met to constitute an incident of sexual harassment which is subject to the requirements of the Procedure.

1.4. Title IX Coordinator

The head of Human Resources serves as the Title IX Coordinator [and ADA/504 Coordinator] and oversees implementation of the SCCC’s Affirmative Action and Equal Opportunity plan, disability compliance, and SCCC’s Policy on equal opportunity, harassment, and nondiscrimination.

The Title IX Coordinator has the primary responsibility for coordinating SCCC’s efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this Procedure.

If circumstances require, the SCCC President will designate another person to oversee the process below should an allegation implicate the Title IX Coordinator or the Title IX Coordinator is otherwise unavailable or unable to fulfill their duties.

1.5. Independence and Conflict-of-Interest

The Title IX Coordinator manages the Title IX Team and acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under the Procedure.

The members of the Title IX Team are vetted and trained to ensure that they do not have a conflict of interest or bias for or against any party in a specific case, or for or against Complainants and/or Respondents generally or an individual Complainant or Respondent.

Claims of bias or conflict of interest by the Title IX Coordinator, should be directed to the SCCC President at jconnolly@sussex.edu. Concerns of bias or a potential conflict of interest by any other Title IX Team member should be directed to the Title IX Coordinator.

Reports of misconduct or discrimination committed by the Title IX Coordinator should be reported to the President at jconnolly@sussex.edu. Reports of misconduct or discrimination committed by

any other Title IX Team member should be reported to the Title IX Coordinator.

1.6. Administrative Contact Information

Complaints or notice of alleged Policy violations, or inquiries about or concerns regarding the Policy and Procedure, may be made internally to:

Name: Stacie Caputo
Title IX Coordinator
Director of Human Resources
One College Hill Road
(973) 300-2772
Email: scaputo@sussex.edu
Web: www.sussex.edu

SCCC has classified all employees as Mandated Reporters of any knowledge they have that a member of the SCCC community is experiencing harassment or discrimination on the basis of sex, and/or retaliation. Section 1.17 below on Mandated Reporting details which employees have this responsibility and their duties, accordingly.

Inquiries may be made externally to:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

1.7. Notice/Complaints of Discrimination, Harassment, and/or Retaliation

Notice or complaints of sex discrimination or harassment based on sex, and/or retaliation may be made using any of the following options:

- a) File a complaint with, or give verbal notice to, the Title IX Coordinator:

Name: Stacie Caputo
Title IX Coordinator
Director of Human Resources
One College Hill Road
(973) 300-2772
Email: scaputo@sussex.edu
Web: www.sussex.edu

Such a report may be made by any person at any time (including during non-business hours) by using the telephone number or email address, or by mail to the office address, listed for the Title IX Coordinator.

- b) Report online, using the reporting form posted at sussex.edu. Anonymous reports are accepted but SCCC's ability of investigation are limited with such type of reports. Title IX Coordinator will contact the Complainant.
- c) Reports can be made to Security at 973-300-2222.

A complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information in the section immediately above, or as described in this section.

As used in this paragraph, the phrase "document filed by a Complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by SCCC) that contains the Complainant's physical or digital signature, or otherwise indicates that the Complainant is the person filing the complaint.

If notice is submitted in a form that does not meet this standard, the Title IX Coordinator will contact the Complainant to request that it is filed correctly.

If circumstances require, the SCCC President will designate another person to oversee the process below should an allegation implicate the Title IX Coordinator or the Title IX Coordinator is otherwise unavailable or unable to fulfill their duties.

1.8. Supportive Measures

SCCC will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged sexual harassment or discrimination on the basis of sex, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the SCCC's education program or activity, including measures designed to protect the safety of all parties or the SCCC's educational environment, and/or deter sexual harassment or discrimination based on sex, and/or retaliation.

The Title IX Coordinator will promptly determine whether to offer supportive measures to the parties upon receiving notice or a complaint. At the time that supportive measures are offered, SCCC will inform the Complainant, in writing, that they may file a formal complaint with SCCC either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the Complainant to consider their wishes with respect to the supportive measures that are planned and implemented.

SCCC will maintain the privacy of the supportive measures to the extent that privacy does not impair SCCC's ability to provide the supportive measures.

The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

Supportive measures may include, but are not limited to:

- Mutual restrictions on contact between parties
- Referral to counseling, medical, and/or other healthcare services
- Referral to community-based service providers
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering work arrangements for employees or student-employees, leaves of absence
- Increased security and monitoring of certain areas of the campus
- Providing campus safety escorts
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties. Violations of no contact orders will be referred to appropriate student or employee disciplinary processes for enforcement.
- Academic support, extensions of deadlines, or other course/program-related adjustments
- Alerts to the Public Safety Office of no contact orders or timely warnings
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

1.9. Emergency Removal

The Title IX Coordinator is authorized to remove a Respondent entirely or partially from an education program or college activity on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student, employee or other individual arising from the allegations of sexual harassment justifies removal. This risk analysis is performed by the Title IX Coordinator in conjunction with the Dean of Student Conduct using the college standard objective violence risk assessment procedures.

In all cases in which an emergency removal or restriction is imposed, the Respondent will be given a notice of the emergency action.

A Respondent may meet with the Title IX Coordinator immediately after the emergency removal and request rescission or modification of an emergency removal action. A Respondent may be accompanied by an Advisor of their choice. The Respondent will be given access to a written summary of the basis for the emergency removal prior to the meeting to allow for adequate preparation.

Employees covered by a union contract may grieve an emergency removal decision under that contract. Students may contest a removal/restriction decision under the appeal provisions of the SCCC Student Code of Conduct.

The Title IX Coordinator has sole discretion under this Procedure to implement or stay an emergency removal/restriction and to determine the conditions and duration. Violation of an emergency removal/restriction under this Procedure will be grounds for discipline, which may include

expulsion or termination. Emergency actions will be limited to those required to address the immediate threat and safety concerns.

The Emergency actions may include, but are not limited to:

- a) suspending a student from an academic program or activity,
- b) temporarily re-assigning an employee,
- c) restricting a student's or employee's access to or use of facilities or equipment,
- d) allowing a student to withdraw or take grades of incomplete without financial penalty,
- e) authorizing an administrative leave for a non-student employee,
- f) suspending a student's participation in extracurricular activities, student employment, student organizational leadership, or intercollegiate/intramural athletics.
- g) At the discretion of the Title IX Coordinator, alternative coursework options may be pursued to reduce an academic impact.

1.10. Privacy

Every effort is made by SCCC to preserve the privacy of reports. SCCC will not share the identity of any individual who has made a report or complaint of harassment, discrimination, or retaliation; any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, or any witness, except as permitted by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g; FERPA regulations, 34 CFR part 99; or as required by law or to carry out the purposes of 34 CFR Part 106, including the conducting of any investigation, hearing, or grievance proceeding arising under these policies and procedures.

SCCC reserves the right to designate which SCCC officials have a legitimate educational interest in being informed about incidents that fall within this Procedure, pursuant to the Family Educational Rights and Privacy Act (FERPA).

Only a small group of officials who need to know will typically be told about the complaint, including but not limited to: Human Resources, Division of Student Development, and Public Safety. Information will be shared as necessary with Investigators, Hearing Panel members/Decision-makers, witnesses, and the parties. The circle of people with this knowledge will be kept as tight as possible to preserve the parties' rights and privacy.

SCCC may contact parents/guardians to inform them of situations in which there is a significant and articulable health and/or safety risk, but will usually consult with the student first before doing so unless a medical professional advises against such consultation.

1.11. Jurisdictional Criteria

This Procedure applies to the education program and activities of SCCC, or to conduct that takes place on the campus or on property owned or controlled by SCCC, or at SCCC sponsored events. The Respondent must be a member of SCCC's community in order for this Procedure to apply.

This Procedure can also be applicable to the effects of off-campus conduct prohibited by this Procedure that effectively deprive a student or employee of access to SCCC. The Title IX Coordinator may also extend jurisdiction to off campus and/or to online conduct when the Title IX Coordinator determines that the conduct affects a substantial SCCC interest.

Regardless of where the conduct occurred, SCCC will address notice/complaints to determine whether the conduct occurred in the context of its employment or educational program or activity and/or has continuing effects on campus or in an off-campus sponsored program or activity. A substantial SCCC interest includes:

- a) Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, single or repeat violations of any local, state, or federal law.
- b) Any situation in which it is determined that the Respondent poses an immediate threat to the physical health or safety of an identifiable SCCC employee or student.
- c) Any conduct prohibited by this Procedure that significantly impedes access to SCCC programs or facilities, threatens or causes breach of the peace or social disorder at SCCC facilities or activities.

If the Respondent is unknown or is not a member of the SCCC community, the Title IX Coordinator will assist the Complainant in identifying appropriate campus and local resources and support options and/or, when criminal conduct is alleged, in contacting local or campus law enforcement if the individual would like to file a police report. Further, even when the Respondent is not a member of the SCCC community, supportive measures, remedies, and resources may be accessible to the Complainant by contacting the Title IX Coordinator or the Student Development Office. In addition, SCCC may take other actions as appropriate to protect the Complainant against third parties, such as barring individuals from SCCC's property and/or events. All vendors serving SCCC through third-party contracts are subject to the policies and procedures of their employers.

When the Respondent is enrolled in or employed by another institution, the Title IX Coordinator can assist the Complainant in liaising with the appropriate individual at that institution, as it may be possible to allege violations through that institution's policies. Similarly, the Title IX Coordinator may be able to advocate for a student or employee Complainant who experiences discrimination in an externship, study abroad program, or other environment external to SCCC where sexual harassment or nondiscrimination policies and procedures of the facilitating or host organization may give recourse to the Complainant.

1.12. Time Limits on Reporting

There is no time limitation on providing notice/complaints to the Title IX Coordinator. However, if the Respondent is no longer subject to the SCCC's jurisdiction and/or significant time has passed, the ability to investigate, respond, and provide remedies may be more limited or impossible.

Acting on notice/complaints significantly impacted by the passage of time (including, but not limited to, the rescission or revision of Procedure) is at the discretion of the Title IX Coordinator, who may document allegations for future reference, offer supportive measures and/or remedies, and/or engage in informal or formal action, as appropriate.

1.13. Online Harassment and Misconduct

The Procedure includes online and cyber manifestations of any of the behaviors prohibited below, when those behaviors occur in or disrupt SCCC's education program and activities or use SCCC networks, technology, or equipment.

While SCCC may not control websites, social media, and other venues in which harassing communications are made, when such communications are reported to SCCC, it will consider means to address and mitigate the effects.

Members of the SCCC community are encouraged to be good digital citizens and to refrain from online misconduct directed at identifiable members of the SCCC community, such as:

- a) feeding anonymous gossip sites,
- b) sharing inappropriate content via Snaps or other social media,
- c) unwelcome sexting,
- d) revenge porn,
- e) breaches of privacy, or otherwise using the ease of transmission and/or anonymity of the Internet or other technology to harm another member of the SCCC community.

Online postings or other electronic communication by students or employees, including cyberbullying, cyber-stalking, cyber-harassment, etc., occurring completely outside of SCCC's

control (e.g., not on SCCC networks, websites, or between SCCC email accounts) will only be subject to this Procedure when such online conduct can be shown to cause a substantial in-program disruption or threatens the participation of an identifiable individual in a SCCC educational program or activity.

Otherwise, such communications are considered speech protected by the First Amendment. Supportive measures for Complainants will be provided, but protected speech cannot legally be subjected to discipline.

Such harassment may be covered under Code of Conduct used at SCCC even if not subject to the current Procedure.

1.14. Prohibited Discrimination and Harassment on the Basis of Sex

Employees and students are entitled to an employment and educational environment that is free of discrimination and harassment on the basis of sex.

Accordingly, this Procedure prohibits conduct on the basis of sex that satisfies one or more of the following:

- a) Sexual harassment as defined in Section 1.1;
- b) Discrimination in the admission of a student based upon sex;
- c) Discrimination on the basis of sex in the recruitment, hiring or rates of compensation and benefits of employees, or employment actions and practices based upon marital, parental, family status or pregnancy.

A Respondent violates this Procedure if they engage in sexual activity with a minor or someone incapable of giving consent.

1.15. Retaliation and False statements

Activity under this Procedure protected from retaliation includes:

- a) reporting an incident that may implicate this Procedure,
- b) participating in the grievance process,
- c) supporting a Complainant or Respondent,
- d) assisting in providing information relevant to an investigation,
- e) acting in good faith to oppose conduct that constitutes a violation of this Procedure.

Acts of alleged retaliation should be reported immediately to the Title IX Coordinator and will be promptly investigated. SCCC is prepared to take appropriate steps to protect individuals who fear that they may be subjected to retaliation.

Prohibited retaliation includes intimidating, threatening, coercing, harassing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the Title IX Rule or this Procedure, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this Procedure.

Retaliation also includes charges against an individual for student or employee code of conduct violations that do not involve sex discrimination or sexual harassment but arise out of the same facts or circumstances as a report or complaint of sex discrimination/sexual harassment, filed for the

purpose of interfering with any right or privilege secured by Title IX.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a grievance proceeding under this Procedure does not constitute retaliation, if the Final Determination under this Procedure concludes that the statement was materially false and made in bad faith.

1.16. Confidential Resources

The on-campus and off-campus Confidential Resources listed below may maintain confidentiality and are not required to report actual or suspected discrimination or harassment on the basis of sex, when acting under the scope of their licensure, professional ethics, and/or professional credentials, except in cases of immediacy of threat or danger or abuse of a minor, an incapacitated individual, or when disclosure is required by law of court order.

If a Complainant would like the details of an incident to be kept confidential, the Complainant may speak with:

- a) On-campus professional counselors and staff
- b) On-campus health service providers and staff
- c) On-campus Victim Advocates
- d) The following Off-campus (non-employees):
 - Licensed professional counselors and other medical providers
 - Local rape crisis counselors
 - Domestic violence resources
 - Local or state assistance agencies
 - Clergy/Chaplains
 - Attorneys

A Confidential Resource may offer options and resources without any obligation to inform an outside agency or the Title IX Coordinator unless a Complainant has requested the information be shared.

Campus counselors are available to help free of charge and may be consulted on an emergency basis during normal business hours.

SCCC employees with confidentiality authority will timely submit anonymous statistical information for Clery Act compliance purposes unless they believe it would be harmful to their client or patient.

1.17. Mandated Reporting

All employees of SCCC (including student employees), with the exception of those who are designated as Confidential Resources, are Mandated Reporters and must promptly share with the Title IX Coordinator all known details of a report of violation of this Procedure that is made to them in the course of their employment. Employees must also promptly share all details of behaviors violative of this Procedure that they observe or have knowledge of, even if not reported to them by a Complainant or third party.

Complainants should carefully consider whether to share personally identifiable details with non-confidential Mandated Reporters, as those details must be shared with the Title IX Coordinator. Generally, disclosures in surveys, classroom writing assignments or discussions, human subjects research, or advocacy marches or speak-outs do not provide notice that must be reported to the Title IX Coordinator by employees, unless the Complainant clearly indicates that they desire a report to be made or seek assistance from SCCC. Supportive measures may be offered as the result of such disclosures without formal SCCC action.

Failure of a Mandated Reporter, as described above in this section, to report an incident of harassment or discrimination of which they become aware is a violation of the Policy and Procedure and may be subject to disciplinary action. A Mandated Reporter who is themselves a target of harassment or other misconduct under this Procedure is not required to report their own experience, though they are, of course, encouraged to do so.

1.18. Candid Misconduct Reporting

SCCC encourages the reporting of misconduct and crimes by Complainants and witnesses. Complainants, witnesses or Respondents may be hesitant to report to SCCC officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident.

It is in the best interests of the SCCC community that individuals choose to report misconduct to SCCC officials and share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process SCCC will favorably weigh the candor and participation of an individual other than the Respondent when addressing discipline for the voluntary self-disclosure of minor collateral misconduct in the course of reporting of serious misconduct of a Respondent. This incentive to report misconduct is not applicable to a Respondent with respect to a Complainant.

1.19. Anonymous Notice

At the request of a Complainant, notice may be given by a Mandated Reporter to the Title IX Coordinator anonymously, without identification of the Complainant.

The Mandated Reporter cannot remain anonymous themselves. If a Complainant has requested that a Mandated Reporter maintain the Complainant's anonymity, the Mandated Reporter may do so unless it is reasonable to believe that a compelling threat to health or safety could exist. The Mandated Reporter can consult with the Title IX Coordinator on that assessment without revealing personally identifiable information. The anonymous notice will be investigated by SCCC to the extent possible, both to assess the underlying allegation(s) and to determine if supportive measures or remedies can be provided.

However, the anonymous notice typically limits SCCC's ability to investigate, respond, and provide remedies, depending on what information is shared. When a Complainant has made a request for anonymity, the Complainant's personally identifiable information may be withheld by a Mandated Reporter, but all other details must be shared with the Title IX Coordinator.

Mandated reporters may not be able to maintain requests for anonymity for Complainants who are

minors, elderly, and/or disabled, depending on state mandated reporting of abuse requirements.

1.20. When a Complainant Does Not Wish to Proceed

If a Complainant does not wish their identity to be disclosed, does not wish for an investigation to take place, or does not want a formal complaint to be pursued, they may make such a request to the Title IX Coordinator, who will evaluate that request in light of the duty to ensure the safety of the campus and to comply with state or federal law.

The Title IX Coordinator has ultimate discretion over whether SCCC proceeds when the Complainant does not wish to do so, and the Title IX Coordinator may sign a formal complaint to initiate a grievance process upon completion of an appropriate violence risk assessment. The Title IX Coordinator's decision should be based on results of the violence risk assessment that show a compelling risk to health and/or safety that requires SCCC to pursue formal action to protect the community. A compelling risk to health and/or safety may result from evidence of patterns of misconduct, predatory conduct, threats, abuse of minors, use of weapons, and/or violence. The Title IX Coordinator may be compelled to act on alleged employee misconduct irrespective of a Complainant's wishes.

The Title IX Coordinator must also consider the effect that non-participation by the Complainant may have on the availability of evidence and the SCCC's ability to pursue a Formal Grievance Process fairly and effectively.

When the Title IX Coordinator executes the written complaint, he/she does not become the Complainant. The Complainant is the individual who is alleged to be the victim of conduct that could constitute a violation of the Policy.

When the Title IX Coordinator proceeds, the Complainant (or their Advisor) may have as much or as little involvement in the process as they wish. The Complainant retains all rights of a Complainant under this Procedure irrespective of their level of participation.

If the Complainant chooses not to participate, the Advisor may be appointed as proxy for the Complainant throughout the process, acting to ensure and protect the rights of the Complainant. SCCC's ability to remedy and respond to a violation notice may be limited if the Complainant does not want the SCCC to proceed with an investigation and/or grievance process.

In cases in which the Complainant requests confidentiality and no formal action and the circumstances allow SCCC to honor that request, SCCC will offer informal resolution options, supportive measures, and remedies to the Complainant, but will not otherwise pursue formal action. The election of a Complainant to take no action can be changed if the Complainant decides to pursue a formal complaint at a later date.

1.21. False Allegations and Evidence

Deliberately false and/or malicious accusations made in bad faith under this Procedure, as opposed to allegations which, even if erroneous, are made in good faith, are a serious offense and will be subject to appropriate disciplinary action.

Additionally, witnesses and parties knowingly providing false evidence, tampering with or

destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation may be subject to discipline.

1.22. Federal Statistical Reporting Obligations under the Clery Act.

Parties reporting sexual assault, domestic violence, dating violence, and/or stalking are advised that that under the Clery Act, SCCC must issue timely warnings for incidents reported to them that pose a serious or continuing threat of bodily harm or danger to members of the campus community. SCCC will ensure that a Complainant's name and other identifying information is not disclosed, while still providing enough information for community members to make safety decisions in light of the potential danger.

Certain campus officials – those deemed campus Security Authorities – have a duty to report the following for federal statistical reporting purposes (Clery Act):

- a) All “primary crimes,” which include homicide, sexual assault, robbery, aggravated assault, burglary, motor vehicle theft, and arson;
- b) Hate crimes, which include any bias motivated primary crime as well as any bias motivated larceny or theft, simple assault, intimidation, or destruction/damage/vandalism of property;
- c) VAWA (Violence Against Women Act) -based crimes, which include sexual assault, domestic violence, dating violence, and stalking;
- d) Arrests and referrals for disciplinary action for weapons-related law violations, liquor-related law violations, and drug abuse-related law violations.

All personally identifiable information is kept private, but statistical information must be passed along to Campus Security Authorities regarding the type of incident and its general location (on or off-campus or in the surrounding area, but no addresses are given) for publication in the Annual Security Report and daily campus crime log.

SECTION 2

RESOLUTION PROCESS FOR ALLEGATIONS OF VIOLATION OF TITLE IX POLICY

2.1. Overview

The procedures below will govern the resolution of Formal or informal notice/complaint received by the Title IX Coordinator/designee or any other officer with authority, alleging violation of the Title IX Policy prohibiting harassment and discrimination on the basis of sex involving students or employees.

A set of technical dismissal requirements within the Title IX regulations may apply as described below, but when a technical dismissal under the Title IX allegations is required, any remaining allegations will proceed using these same resolution procedures, clarifying which policies above are applicable.

The procedures below do not apply to qualifying allegations of sexual harassment, as defined in Section 1.1, committed by an individual who is not a SCCC student or employee. Employees in a collective negotiations unit are entitled to rights provided under the terms of the applicable collective negotiation agreement to the extent those terms do not conflict with federal or state compliance obligations.

All other allegations of misconduct unrelated to incidents covered by the Policy and Procedure will be addressed through procedures elaborated in the student and employee codes of conduct or collective negotiation agreements.

2.2. Notice/Complaint

Upon receipt of a complaint or notice to the Title IX Coordinator of an alleged violation of the Policy, SCCC initiates a prompt initial assessment to determine the next steps SCCC needs to take. The Title IX Coordinator will initiate at least one of three responses:

- a) Offering supportive measures because the Complainant does not want to proceed with a resolution process; and/or
- b) An informal resolution; and/or
- c) A Formal Grievance Process including an investigation and a hearing.

The investigation and grievance process will determine whether or not the Policy has been violated. If so, SCCC will promptly implement effective remedies and discipline.

2.3. Initial Assessment. Dismissal of a formal complaint. Risk analysis

2.3.1. Initial Assessment

Following receipt of notice or a complaint of an alleged violation of the Policy, the Title IX Coordinator engages in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment can include:

- a) If notice is given, the Title IX Coordinator promptly contacts the Complainant and seeks to determine if the person impacted wishes to make a formal complaint, and will assist them to do so, if desired. If they do not wish to do so, the Title IX Coordinator determines whether to initiate a complaint because a violence risk assessment indicates a compelling threat to health and/or safety.
- b) If a formal complaint is received, the Title IX Coordinator assesses its sufficiency and assists the Complainant to make sure it is correctly completed.
- c) The Title IX Coordinator informs the Complainant of the availability of supportive measures with or without the filing of a formal complaint.
- d) The Title IX Coordinator advises the Complainant to ensure they are aware of the right to have an Advisor.
- e) The Title IX Coordinator works with the Complainant to determine whether the Complainant prefers a supportive and remedial response, an informal resolution option, or a formal investigation and grievance process.
 - i. If a supportive and remedial response is preferred, the Title IX Coordinator works with the Complainant to identify their wishes and then seeks to facilitate implementation. No Formal Grievance Process is initiated, though the Complainant can elect to initiate one later, if desired.
 - ii. If an informal resolution option is preferred, the Title IX Coordinator assesses whether the complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and the Title IX Coordinator seeks to determine if the Respondent is also willing to engage in informal resolution.
 - iii. If a Formal Grievance Process is preferred, the Title IX Coordinator determines if the misconduct alleged falls within the scope of the SCCC Title IX Policy. If it does, the Title IX Coordinator will initiate the formal investigation and grievance process, directing the investigation to address:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - an educational or employment environment, based on the nature of the complaint.

2.3.2. Violence Risk Assessment

The Title IX Coordinator may determine that a Violence Risk Assessment (VRA) should be conducted by Student Development or Public Safety as part of the initial assessment.

A VRA authorized by the Title IX Coordinator will be conducted in collaboration with appropriate professionals and campus resources to assess the risk of actionable violence.

A VRA can aid in critical and/or required determinations, including:

- a) Emergency removal of a Respondent on the basis of immediate threat to physical health/safety;
- b) Whether the Title IX Coordinator should pursue/sign a formal complaint absent a willing/able Complainant;
- c) Whether the incident evidences a pattern of predatory conduct and/or climate that incites violence;

- d) Whether it is reasonable to try to resolve a complaint through informal resolution, and what modality may be most successful;
- e) Whether to permit a voluntary withdrawal or employment severance by the Respondent;
- f) Whether to impose transcript notation or communicate with a transfer institution or employer about a Respondent;
- g) Assessment of appropriate sanctions/remedies (to be applied post-hearing);
- h) Whether a Clery Act Timely Warning/Emergency Removal is needed.

2.3.3. Dismissal of a formal complaint

SCCC must dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing, it is determined that:

- a) The conduct alleged in the formal complaint would not constitute a violation of SCCC's Title IX Policy hereinabove, even if proved; and/or
- b) The conduct did not occur in an educational program or activity controlled by SCCC (including activities of SCCC recognized student organizations), and/or SCCC does not have supervisory and disciplinary control of the Respondent; and/or
- c) The conduct did not occur against a person present in the United States; and/or
- d) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in a SCCC education program or activity, and is not employed or seeking to be employed by SCCC.

SCCC may dismiss a formal complaint or any allegations therein if, at any time during the investigation or hearing if:

- a) A Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations therein; or
- b) The Respondent is no longer a SCCC enrolled student or employed by SCCC; or
- c) Specific circumstances prevent the Title IX Coordinator from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Dismissing a complaint under the Procedure does not limit the Title IX Coordinator's authority to address a complaint pursuant to other appropriate SCCC policy process and remedies.

Upon any dismissal, SCCC will promptly send written notice of the dismissal and the rationale for doing so simultaneously to the parties.

This dismissal decision is appealable by any party under the procedures for appeal below. The decision not to dismiss is also appealable by any party claiming that a dismissal is required or appropriate. A Complainant who decides to withdraw a complaint may later request to reinstate it or refile it provided that the Complainant is participating or seeking to participate in a SCCC educational program or activity, or is employed by SCCC at the time of the reinstatement request.

A complaint will not be dismissed because a compliant remains or leaves SCCC.

2.4. Counterclaims

SCCC is obligated to ensure that the grievance process is not abused for retaliatory purposes.

SCCC permits the filing of counterclaims but uses an initial assessment, described above, to assess whether the allegations in the counterclaim are made in good faith. Counterclaims by the Respondent must be made in good faith and not for purposes of retaliation. Counterclaims made with retaliatory intent will not be permitted. Counterclaims determined to have been reported in good faith will be processed using the grievance procedures below. Investigation of such claims may take place after resolution of the underlying initial allegation, in which case a delay may occur. Counterclaims may also be resolved through the same investigation as the underlying allegation, at the discretion of the Title IX Coordinator.

When counterclaims are not made in good faith, they will be considered retaliatory and may constitute a violation of the Policy.

2.5. Right to an Advisor

The parties may each have an Advisor of their choice present with them for all meetings and interviews within the resolution process, if they so choose. The parties may select whoever they wish to serve as their Advisor as long as the Advisor is available and not a witness.

2.5.1. Who Can Serve as an Advisor

The Advisor may be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the resolution process. The parties may choose Advisors from inside or outside of SCCC community. The Title IX Coordinator will also offer to assign a trained Advisor for any party if the party so requests. If the parties choose an Advisor from the pool available from SCCC, the Advisor will be trained by the SCCC and be familiar with the SCCC's resolution process.

Parties also have the right to choose not to have an Advisor in the initial stages of the resolution process, prior to a hearing.

2.5.2. Advisors in Hearings. SCCC Appointed Advisor

Under U.S. Department of Education regulations applicable to Title IX, the opportunity to conduct cross-examination is required during the hearing, but must be conducted by the parties' Advisors. The parties are not permitted to directly cross-examine each other or any witnesses.

If a party does not have an Advisor for a hearing, SCCC will appoint a trained Advisor for the limited purpose of conducting any cross-examination. A party may reject this appointment and choose their own Advisor, but they may not proceed with the hearing without an Advisor. If the party's Advisor will not conduct cross-examination, SCCC will appoint an Advisor, regardless of the participation or non-participation of the advised party in the hearing itself. Questioning of the parties and witnesses will also be conducted by the Decision-maker(s) during the hearing.

2.5.3. Advisor's Role

The parties may be accompanied by their Advisor in all meetings and interviews at which the party is entitled to be present, including intake and interviews. Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.

SCCC cannot guarantee equal Advisory rights, meaning that if one party selects an Advisor who is an attorney, but the other party does not or cannot afford an attorney, SCCC is not obligated to provide an attorney.

2.5.4. Pre-Interview Meetings

Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings. This pre-meeting allows Advisors to clarify and understand their role in SCCC's policies and procedures.

2.5.5. Advisor Permissible Role

All Advisors are subject to the same SCCC policies and procedures, whether they are attorneys or not. Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address SCCC officials in a pre-hearing meeting or interview unless invited to (e.g., asking procedural questions). The Advisor may make a presentation during an investigation meeting or pre-hearing proceeding but may not respond on behalf of the advisee to questions directed to the advisee by the investigator(s) or other Decision-maker(s). The Advisor may only conduct cross-examination during a hearing proceeding.

The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase or the resolution process. Although the Advisor generally may not speak on behalf of their advisee, the Advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their Advisors should ask for breaks to allow for private consultation.

Any Advisor who oversteps their role as defined by this Procedure will be warned only once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting will be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator will determine how to address the Advisor's non-compliance and future role.

2.5.6. Sharing Information with the Advisor

The parties may wish to have SCCC share documentation and evidence related to the allegations with their Advisors. Parties may share this information directly with their Advisor or other individuals if they wish.

The parties must submit a consent to the Title IX Coordinator that authorizes a release of information to the Advisor before SCCC is able to share records with an Advisor.

A party may request that copies of all written communication from the Title IX Coordinator or designated investigator directed to the party be sent to the party's attorney Advisor. However, during the investigation phase responses to requests from the Title IX Coordinator or investigator must be

from the party not the attorney advisor.

2.5.7. Privacy of Records Shared with Advisor

Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by SCCC. SCCC may seek to restrict the role of any Advisor who does not respect the sensitive nature of the process or who fails to abide by the requirement to maintain records privacy.

2.5.8. Expectations of an Advisor

Advisors are expected to adjust their schedule to allow them to attend investigatory, resolution and procedural meetings and hearing proceedings when planned. One request to reschedule a previously scheduled a meeting will only be granted if the Title IX Coordinator is satisfied that

- a) the Advisor's inability to attend could not have been foreseen, and
- b) granting the rescheduling request will not cause an unreasonable delay.

SCCC may also make reasonable provisions to allow an Advisor who cannot attend in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.

2.5.9. Expectations of the Parties with Respect to Advisors

A party may elect to change Advisors during the process and is not obligated to use the same Advisor throughout. The parties are expected to inform the Investigator(s) of the identity of their Advisor at least three (3) business days before the date of their first meeting with Investigators (or as soon as possible if a more expeditious meeting is necessary or desired). The parties are expected to provide timely notice to the Title IX Coordinator if they change Advisors at any time. It is assumed that if a party changes Advisors, consent to share information with the previous Advisor is terminated, and a records release authorization for the new Advisor must be provided.

Parties are expected to inform the Title IX Coordinator of the identity of their hearing Advisor at least three (3) business days before the hearing.

SCCC fully respects and accords the Weingarten rights of employees. For parties who are entitled to union representation, the unionized employee may have their union representative (if requested by the party) as well as an Advisor of their choice present for all resolution-related meetings and interviews. Where a party has both an Advisor and a union representative participating, to uphold the principles of equity, the other party (regardless of union membership) will also be permitted to have two Advisors. Witnesses are not permitted to have union representation or Advisors in grievance process interviews or meetings.

2.6. Informal Resolution

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings.

Informal Resolution can include three different approaches:

- a) When the parties agree to resolve the matter through an alternate resolution mechanism

- including mediation, restorative practices or other forms of alternate dispute resolution without a full investigation or adjudication
- b) When the Respondent accepts responsibility for violating the Policy, and desires to accept a sanction and end the resolution process;
 - c) When the Title IX Coordinator can resolve the matter informally by providing supportive measures to remedy the situation.

To initiate Informal Resolution, a Complainant needs to submit a formal complaint, as defined above. A Respondent wishing to initiate Informal Resolution, should so advise the Title IX Coordinator.

Prior to implementing Informal Resolution, Title IX Coordinator will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by SCCC.

Title IX Coordinator will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

Informal resolutions cannot be offered or facilitated in a case involving an employee's sexual harassment of a student.

2.6.1. Alternate Resolution

Alternate Resolution is an informal process, including mediation or restorative practices, etc. by which a mutually agreed upon resolution of an allegation is reached.

All parties must consent to the use of Alternate Resolution.

The Title IX Coordinator may look to the following factors to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties:

- a) The parties' amenability to Alternate Resolution;
- b) The willingness of the parties to waive the right to grieve under an applicable union contract the resolution of the charges
- c) Likelihood of potential resolution;
- d) Civility of the parties;
- e) Cleared violence risk assessment/ongoing risk analysis;
- f) Disciplinary history;
- g) Whether an emergency removal is needed;

The ultimate determination of whether Alternate Resolution is available or successful is to be made by the Title IX Coordinator. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions.

Results of complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

2.6.2. Respondent Accepts Responsibility for Alleged Violations

The Respondent may accept responsibility for all or part of the alleged Policy violations at any

point during the resolution process. If the Respondent indicates an intent to accept responsibility for all of the alleged misconduct, the formal process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in that section above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and SCCC are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator implements the accepted finding that the Respondent is in violation of the Policy and implements agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal or grievance under a union contract once all parties indicate their written assent to all agreed upon terms of resolution.

When the parties are unable to agree on all terms of the informal resolution, the Formal Grievance Process will resume at the same point where it was paused. When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both on the Complainant and the community.

2.6.3. Resolution by Provision of Supportive Measures

With the consent of the parties, the Title IX Coordinator may offer resolution by providing supportive measures to the Complainant.

2.7. Formal Complainant Grievance Process. The Pool.

The Complainant Formal Grievance Process relies on a pool of administrators (“the Pool”) to carry out the process. The administrators in the pool may be from other colleges in the State of New Jersey, or from consortiums, regional centers, or qualified professionals retained by SCCC.

2.7.1. Pool Member Roles

Members of the Pool may serve in the following roles, at the direction of the Title IX Coordinator:

- a) To provide appropriate intake of and initial guidance pertaining to complaints
- b) To act as an Advisor to a party
- c) To serve in a facilitation role in informal resolution or Alternate Resolution if appropriately trained in appropriate resolution modalities (e.g., mediation, restorative practices)
- d) To perform or assist with initial assessment
- e) To investigate complaints
- f) To serve as a hearing facilitator (process administrator, no decision-making role)
- g) To serve as a Decision-maker regarding the complaint

2.7.2. Pool Member Appointment

The Title IX Coordinator in consultation with the President appoints the Pool, which acts with independence and impartiality. This process of role assignment may be the result of particular skills,

aptitudes, or talents identified in members of the Pool that make them best suited to particular roles.

2.7.3. Pool Member Training

The training of the Grievance Process Pool members shall include:

- a) The definition of sexual harassment covered by this Procedure
- b) The resolution procedures
- c) The scope of SCCC education program and activities
- d) How to conduct an investigation and grievance process including available informal resolution processes, hearings, and appeals
- e) How to serve impartially and avoidance of pre-judgment, conflicts of interest and bias
- f) The applicable standard of proof and burden of proof under this Procedure
- g) How to determine appropriate sanctions
- h) The range of possible disciplinary sanctions and remedies
- i) The range of available supportive measures
- j) Permitted grounds for appeal under this Procedure
- k) Training of decision-makers on issues of relevance of questions or evidence, including when questions and evidence about complainant's sexual predisposition or prior sexual behavior are not relevant
- l) Training of decision-makers on any technology to be used at a live hearing Investigators must receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence

Training need not be live and maybe online or virtual.

2.8. Notice of Investigation and Allegations

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the Respondent upon commencement of the Formal Complainant Grievance Process. This facilitates the Respondent's ability to prepare for the interview and to identify and choose an Advisor to accompany them. The NOIA is also copied to the Complainant, who is to be given advance notice of when the NOIA will be delivered to the Respondent.

The content of the NOIA will include:

- a) A link to this Procedure,
- b) A summary of the misconduct allegedly constituting sexual harassment as defined in this Procedure,
- c) Identity of the involved parties (if known)
- d) The date and location of the alleged incident (if known),
- e) A statement that Respondent is presumed not responsible for the reported misconduct unless and until the evidence supports a different determination,
- f) A statement that determinations of responsibility are made at the conclusion of the resolution process,
- g) A statement that the parties have the right to inspect and review all directly related and/or relevant evidence gathered during the investigation,
- h) The right for each party to have an Advisor of their choosing, who may be but is not required to be, an attorney and ways to identify an Advisor,
- i) A statement informing the parties that the Policy and Procedure prohibit knowingly making

- false statements, including knowingly submitting false information during the resolution process,
- j) Details on how the party may request disability accommodations during the interview process,
- k) The name(s) of the Investigator(s), along with the rights to notify the Title IX Coordinator of any conflict of interest that the investigator may have,
- l) An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the investigation progresses and more information becomes available regarding the addition or dismissal of various charges.

The NOIA will be made in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address(es) of the parties as indicated in official SCCC records, or emailed to the parties' SCCC-issued email or designated accounts. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

2.9. Resolution Timeline

SCCC will make a good faith effort to complete the resolution process within a ninety-to-one hundred twenty (90-120) business day time period, which can be extended as necessary for good cause by the Title IX Coordinator, who will provide notice and rationale for any extensions or delays to the parties as appropriate, as well as an estimate of how much additional time will be needed to complete the process.

Good cause may include considerations such as:

- a) Absence of a party, a party's advisor, or a witness
- b) Concurrent law enforcement activity
- c) Need for language assistance
- d) Need for accommodation of disabilities
- e) Health conditions

SCCC will promptly resume its investigation and resolution process as soon as feasible. During such a delay, SCCC will implement supportive measures as deemed appropriate.

Unless deferral is required by law, investigation and resolution of complaints under this Procedure will proceed notwithstanding the pendency of civil or criminal charges or grievances filed by a Respondent under a union contract involving the underlying incident(s), and notwithstanding the dismissal or other disposition of civil or criminal charges.

Investigation time is not set forth in this Procedure as it depends on the nature, extent, and complexity of the allegations, availability of witnesses, or the pendency of law enforcement proceedings. SCCC will make a good faith effort to complete investigations as promptly as circumstances permit and will communicate regularly with the parties to update them on the progress and timing of the investigation.

2.10. Ensuring Impartiality

Any individual materially involved in the administration of the resolution process (including the

Title IX Coordinator, Investigator(s), and Decision-maker(s)) may neither have nor demonstrate a conflict of interest or bias for a party generally, or for a specific Complainant or Respondent. The Title IX Coordinator will vet the assigned Investigator(s) to ensure impartiality by ensuring there are no actual or apparent conflicts of interest or disqualifying biases.

The parties may, at any time during the resolution process, raise a concern regarding bias or conflict of interest, and the Title IX Coordinator will determine whether the concern is reasonable and supportable. If so, another Pool member will be assigned and the impact of the bias or conflict, if any, will be remedied. If the source of the conflict of interest or bias is the Title IX Coordinator, concerns should be communicated to the President.

The Formal Complainant Grievance Process involves an objective evaluation of all relevant evidence obtained, including evidence which supports that the Respondent engaged in a Policy violation and evidence which supports that the Respondent did not engage in a Policy violation. Credibility determinations may not be based solely on an individual's status or participation as a Complainant, Respondent, or witness.

SCCC operates with the presumption that the Respondent is not responsible for the reported misconduct unless and until the Respondent is determined to be responsible for a Policy violation by the applicable standard of proof.

2.11. Investigation Process

Investigations shall conform to the requirements of 34 CFR Part 106.45. All parties will have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record. The investigator will assist the Title IX Coordinator with conducting an initial assessment to determine if the allegations constitute a potential violation of the Policy. The Investigator will prepare the initial Notice of Investigation and Allegation (NOIA). The NOIA may be amended with any additional or dismissed allegations.

The Parties shall be provided with written notice of the date, time, location, and participants of all investigative interviews. Each party will be provided the opportunity to suggest witnesses and questions they wish the Investigator to ask of the other party and witnesses, and the opportunity to suggest documents to be reviewed for relevant information.

Each party will have the opportunity to review the relevant evidence the Investigator deems to be directly related to the allegations raised in the complaint, including exculpatory evidence.

Prior to completion of the investigative report the Parties will be given a draft investigative report summarizing the investigation; all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included. The Parties will be given ten (10) business days to submit a written response to the draft investigative report. A Party may elect to waive in writing the full ten days for response.

The Investigator will consider the responses prior to completion of the final investigative report. The investigative report shall not render recommended disposition of the violations of the Policy alleged in the complaint. The final investigative report shall be delivered to the Title IX Coordinator and to the parties and their Advisors through secure electronic transmission or by a hard copy at least ten (10) business days prior to a hearing.

2.11.1. Witnesses in the Investigation

Witnesses (as distinguished from the parties) who are employees of SCCC are expected to cooperate with and participate in the SCCC's investigation and resolution process.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the Investigator determines that timeliness or efficiency dictate a need for remote interviewing. Appropriate steps will be taken to reasonably ensure the security/privacy of remote interviews. If deemed appropriate by the Investigator, witnesses may provide written statements in lieu of interviews or choose to respond to written questions.

If a witness submits a written statement but does not submit to cross examination at a hearing, their written statement may not be used as evidence.

2.11.2. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings by an individual other than the Investigator. If Investigator elects to audio and/or video record interviews, all involved parties must be made aware of the Investigator's audio and/or video recording and provided with a copy of the recording.

2.11.3. Evidentiary Considerations in the Investigation

The investigation does not consider:

- a. incidents not directly related to the alleged violation, unless they evidence a pattern;
- b. the character of the parties;
- c. questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

2.12. Hearing process

2.12.1. Referral for Hearing

Provided that the complaint is not resolved through Informal Resolution, once the final investigation report is shared with the parties, the Title IX Coordinator will refer the matter for a hearing. The hearing cannot be held less than ten (10) business days from the date that the final investigation report is transmitted to the parties and the Decision-maker, unless all parties and the Decision-maker agree to an expedited timeline.

2.12.2. Decision-maker

The Title IX Coordinator will designate a single Decision-maker or a three-member panel from the Pool, at the discretion of the Title IX Coordinator. The single Decision-maker will Chair the hearing. With a panel, one of the three members will be appointed as Chair by the Title IX Coordinator. The Decision-maker will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate from the Pool sit in throughout the resolution process in the event that a substitute is needed for any reason.

Because the Investigator may be a witness in the hearing the Investigator may not serve as a Decision-maker. Those who are serving as Advisors for any party may not serve as Decision-makers in that matter.

The Title IX Coordinator may not serve as a Decision-maker or hearing chair in the matter but may serve as an administrative facilitator of the hearing. The hearing will convene at a time determined by the hearing Chair.

The parties will be given the identity of the Decision-maker at least ten (10) business days in advance of the hearing. The name of Decision-maker can be given to the parties via Notice of Hearing. All objections to any Decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than five (5) business days prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their bias or conflict of interest precludes an impartial hearing of the allegation(s).

2.12.3. Evidentiary Considerations in the Hearing

Any evidence that the Decision-maker determines to be relevant and credible may be considered.

The hearing does not consider:

- a. incidents not directly related to the alleged Policy violation, unless they evidence a pattern;
- b. the character of the parties;
- c. questions and evidence about the Complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Previous disciplinary action of any kind involving the Respondent may be considered in determining an appropriate sanction upon a determination of violation of the Title IX Policy. This information is only considered at the sanction stage of the process.

The parties may each submit a written impact statement prior to the hearing for the consideration of the Decision-maker at the sanction stage of the process if a determination of violation of the Title IX Policy is made.

2.12.4. Notice of Hearing

No less than ten (10) business days prior to the hearing, the Title IX Coordinator or the hearing Chair will send notice of the hearing to the parties. Once mailed, emailed, and/or received in-person, notice will be presumptively deemed to be delivered.

The hearing notice will contain:

- a) A description of the alleged violation(s), a list of all policies allegedly violated, a description of the applicable procedures, and a statement of the potential sanctions/responsive actions that could result.
- b) The time, date, and location of the hearing..
- c) Any technology that will be used to facilitate the hearing.
- d) Information about the option for the live hearing to occur with the parties located in separate rooms using technology that enables the Decision-maker and parties to see and hear a party or witness answering questions. Such a request must be received by the Title IX Coordinator at least five (5) business days prior to the hearing.
- e) A list of all those who will attend the hearing or participate remotely, along with an invitation to object to any Decision-maker on the basis of demonstrated bias. This must be raised with the Title IX Coordinator at least five (5) business days prior to the hearing.
- f) Information on how the hearing will be recorded and on access to the recording for the parties after the hearing.
- g) A statement that if any party or witness does not appear at the scheduled hearing, the hearing may be held in their absence.,. For compelling reasons, the Chair may reschedule the hearing.
- h) Notification that the parties may have the assistance of an Advisor of their choosing at the hearing, and will be required to have an Advisor present to conduct any cross examination of a party or witness. The party must notify the Title IX Coordinator if they do not have an Advisor, and the Title IX Coordinator will appoint one without cost. Each party must have an Advisor present at the hearing. There are no exceptions.
- i) A copy of all the materials provided to the Decision-maker about the matter will be included with the hearing Notice unless they have been provided already.
- j) An invitation to contact the Title IX Coordinator to arrange any disability accommodations, language assistance, and/or interpretation services that may be needed at the hearing, at least five (5) business days prior to the hearing.
- k) The preclusion of mobile phones/devices during the hearing.

Hearings for possible violations that occur near or after the end of an academic term (assuming the Respondent is still subject to this Procedure) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by SCCC. In these cases, if the Respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Procedure is not in good standing to graduate.

2.12.5. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should

request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing. The Title IX Coordinator may arrange to use technology to allow remote testimony provided that the fairness of the hearing is not compromised. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

2.12.6. Pre-Hearing Participation Assessments

Any witness scheduled to participate in the hearing must have been first interviewed by the Investigator or have delivered to the Investigator a written statement or answers to written questions, unless all parties and the Chair assent to the witness's participation in the hearing.

The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not assent to the admission of evidence newly offered at the hearing, the Chair may delay the hearing and instruct that the investigation need to be reopened to consider that evidence if the Chair is satisfied that the newly offered evidence (i) was not previously available, and (ii) is material to a determination of the alleged Policy violations.

The Title IX Coordinator will give the Decision-maker a list of the names of all parties, witnesses, and Advisors at least five (5) business days in advance of the hearing. Any Decision-maker who cannot make an objective determination must recuse themselves from the proceedings when notified of the identity of the parties, witnesses, and Advisors in advance of the hearing. If a Decision-maker is unsure of whether a bias or conflict of interest exists, they will refer the concern to the Title IX Coordinator.

2.12.7. Pre-Hearing Meetings

The Chair may convene a pre-hearing meeting or telephone conference with the parties and/or their Advisors to invite them to submit the questions or topics they (the parties and/or their Advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing or provide recommendations for more appropriate phrasing. However, this advance review opportunity does not preclude the Advisors from asking at the hearing for a reconsideration based on any new information or testimony offered at the hearing. The Chair shall document and share with the parties the Chair's rationale for any exclusion or inclusion at this pre-hearing meeting.

The Chair, only with the consent of the parties, may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigator(s) in the investigation report or during the hearing.

At each pre-hearing meeting or conference call with parties and their Advisors, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the Investigator may be argued to be relevant. The Chair may rule on these arguments pre-hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with legal counsel and/or the Title IX Coordinator, or ask either or both to participate in pre-hearing meetings or conference calls. Pre-hearing meetings and conference calls will not be recorded. However, the Chair shall transmit to the parties written confirmation of his

pre-hearing evidentiary rulings.

2.12.8. Hearing Regulations

The hearing shall be conducted as a live hearing. At the hearing, the Decision-maker has the authority to hear and make determinations on all allegations of discrimination or harassment based on sex.

Either party may request that a hearing be held with the parties in separate rooms with technology enabling the parties and the decision-maker(s) to see and hear witnesses. Webcams, laptops or cellphones, utilizing available software will meet this requirement.

Participants at the hearing will be limited to the Chair, any additional Decision-maker(s) or panelists, the hearing facilitator, the Investigator who conducted the investigation, the parties, or three (3) organizational representatives when an organization is the Respondent, Advisors to the parties, any called witnesses, the Title IX Coordinator and anyone required to provide authorized accommodations or assistive or technical services. The hearing facilitator attends to logistics of rooms for various parties/witnesses as they flow in and out of the hearing space; ensuring recording and/or virtual conferencing technology is working as intended; and copying and distributing materials to participants, as appropriate.

The Chair will rule on all questions of the hearing. Anyone appearing at the hearing to provide information will respond to questions on their own behalf and not through an Advisor. The Chair will allow a witness who has relevant information to appear at a portion of the hearing in order to respond to specific questions from the Decision-maker(s) and the parties, and then the witness will be excused.

2.12.9. Consolidation of formal complaints. Joint Hearings

SCCC may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complaint against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. In such cases the allegations may be heard jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged Policy violation.

2.12.10. Testimony and Questioning

Upon the Chair convening the hearing, the Investigator will present a summary of the final investigation report, including items that are contested and those that are not. The Investigator will be subject to questioning by the Decision-maker and the parties through their Advisors. The Investigator will be present during the entire hearing process, but not during deliberations. The parties, their Advisors and the Decision-maker shall refrain from asking the Investigator for opinions on credibility, recommended findings, or determinations. If such information is introduced, the

Chair will direct that it be disregarded.

After the Investigator presents the investigation report and is questioned, the parties and witnesses may provide relevant information in turn, beginning with the Complainant, and then in the order determined by the Chair. The parties/witnesses will submit to questioning by the Decision-maker and then by the parties through their Advisors (“cross-examination”).

All questions are subject to a relevance determination by the Chair. The Advisor will proffer questions to the Chair orally. The Chair will determine whether the question will be permitted, disallowed, or rephrased based upon whether the question furthers truth seeking of information relevant to determination of the alleged Policy violation. The Chair may invite arguments regarding relevance with the Advisors, if the Chair so chooses. The Chair will then announce on the record the ruling on the relevance of the question and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance. The Chair will limit or disallow questions on the basis that they are irrelevant, repetitious (and thus irrelevant), abusive or badgering. The Chair has final say on all questions and determinations of relevance and admissibility. The Chair may consult with legal counsel on any questions of admissibility. The Chair may ask advisors to frame why a question is or is not relevant from their perspective but will not entertain argument from the advisors on relevance once the Chair has ruled on a question.

If the parties raise an issue of bias or conflict of interest of an Investigator or Decision-maker at the hearing, the Chair may elect to address those issues, consult with legal counsel, and/or refer them to the Title IX Coordinator.

2.12.11. Refusal to Submit to Cross-Examination and Inferences. Absence from the hearing.

A party or witness may decline to submit to cross-examination at the hearing, either because they do not attend the meeting or they may attend but refuse to answer questions.

The Decision-maker may not draw any inference regarding responsibility based solely on a party’s or witness’s absence from the live hearing or refusal to answer cross-examination or other questions.

2.12.12. Advisors Required to Comply with Hearing Regulations

If a party’s Advisor of choice refuses to comply with the SCCC’s established regulations for the hearing, the Title IX Coordinator may require the party to use a different Advisor. The Decision-maker may instruct the Title IX Coordinator to provide the party with another Advisor to conduct cross-examination if the Advisor chosen by a party refuses to comply with the rules of decorum.

2.12.13. Recording Hearings

Hearings (but not deliberations) are recorded by the hearing facilitator for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted. The parties shall be provided with access to the recording of the hearing for review.

2.13. Determinations and Standard of Proof

After the hearing the Decision-maker shall deliberate and render a determination on “Clear and Convincing” standard; whether it is substantially more likely than not that the Respondent violated the Policy as alleged. The Decision-maker(s) if a panel, will deliberate in closed session and determine by a simple majority vote whether the Respondent is responsible or not responsible for the Policy violation(s) in question.

When there is a finding of responsibility on one or more of the allegations, the Decision-maker may then consider the previously submitted party impact statements in determining appropriate sanction(s). Each of the parties will be given an opportunity to review any impact statement submitted by the other party(ies). The Decision-maker may consider but shall not be bound by the impact statements.

The Decision-maker will review any pertinent conduct history provided by the appropriate SCCC administrator and will determine the appropriate sanction(s) in consultation with other appropriate administrators, as required.

The Decision-maker will then prepare a written statement of findings and deliver it to the Title IX Coordinator, identifying the Policy violations alleged, detailing the determination, rationale, the evidence used in support of the determination, the evidence disregarded, credibility assessments, and any sanctions or recommendations. This statement of findings will be submitted to the Title IX Coordinator within five (5) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

2.14. Notice of Outcome

Using the statement of findings, the Title IX Coordinator will work with the Decision-maker to prepare a Notice of Outcome. The Notice of Outcome may be reviewed by legal counsel for SCCC.

The Title IX Coordinator will then provide the Notice of Outcome including the statement of findings, simultaneously to the parties and their Advisors within ten (10) business days of receiving the Decision-maker’s statement of findings.

The Notice of Outcome will be provided in writing and may be delivered by one or more of the following methods: in person, mailed to the local or permanent address of the parties as indicated in official SCCC records, or emailed to the parties’ SCCC issued email or otherwise approved account. Once mailed, emailed, and/or received in-person, notice will be presumptively delivered.

The Notice of Outcome will include:

- a) the allegations potentially constituting sexual harassment as defined in this Procedure;
- b) a description of the procedural steps taken by the SCCC from the receipt of the formal complaint through the Decision-maker’s determination, including any and all notifications to the parties, interviews with parties and witnesses, methods used to obtain evidence, and

- hearings held;
- c) the findings of fact that support the determination;
 - d) a statement of, and rationale for, the result of each allegation to the extent SCCC is permitted to share such information under state or federal law;
 - e) any sanctions imposed on the respondent to the extent that SCCC is permitted to share the same according to state or federal law;
 - f) any remedies provided to the Complainant designed to ensure access to SCCC's educational or employment program or activity, to the extent SCCC is permitted to share such information under state or federal law;
 - g) available appeal options and the permissible bases for the parties to appeal.

The Notice of Outcome will also include information on when the determination results are considered by SCCC to be final.

2.15. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- a) The nature, severity of, and circumstances surrounding the violation(s)
- b) Respondent's disciplinary history
- c) Previous allegations or allegations involving similar conduct
- d) The need for sanctions/responsive actions to bring an end to the sex-based discrimination or harassment, and/or retaliation
- e) The need for sanctions/responsive actions to prevent the future recurrence of sex-based discrimination or harassment, and/or retaliation
- f) The need to remedy the effects of the sex-based discrimination or harassment, and/or retaliation on the Complainant and the community
- g) The impact on the parties
- h) Any other information deemed relevant by the Decision-maker

The sanctions will be implemented as soon as is feasible, either upon the outcome of any appeal or the expiration of the time to appeal without an appeal being requested, except that sanctions may be implemented pending disposition of an appeal if required to prevent any further harm to Complainant or to cease continuance of conduct found to violate SCCC's Title IX Policy.

The sanctions described in this Procedure are not exclusive of, and may be in addition to, other actions taken or sanctions imposed by external authorities.

2.15.1. Student Sanctions

The following are sanctions that may be imposed upon a student singly or in combination:

- a) *Warning*: A formal statement that the conduct was unacceptable and a warning that further violation of any SCCC policy, procedure, or directive will result in more severe sanctions/responsive actions.
- b) *Required Counseling*: A mandate to meet with and engage in either SCCC-sponsored or external counseling to better comprehend the misconduct and its effects.
- c) *Probation*: A written reprimand for violation of institutional policy, providing for more severe

disciplinary sanctions in the event that the student or organization is found in violation of any institutional policy, procedure, or directive within a specified period of time. Terms of the probation will be articulated and may include

- i. denial of specified social privileges,
 - ii. exclusion from co-curricular activities,
 - iii. exclusion from designated areas of campus,
 - iv. no-contact orders, and/or other measures deemed appropriate.
- d) *Suspension*: Termination of student status for a definite period of time not to exceed two years and/or until specific criteria are met. Students who return from suspension are automatically placed on probation through the remainder of their tenure as a student at SCCC.
 - e) *Expulsion*: Permanent termination of student status and revocation of rights to be on campus for any reason or to attend SCCC-sponsored events. This sanction will be noted permanently as a Conduct Expulsion on the student's official transcript.
 - f) *Withholding Diploma*: SCCC may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has an allegation pending or as a sanction if the student is found responsible for an alleged violation.
 - g) *Revocation of Degree*: SCCC reserves the right to revoke a degree previously awarded from the SCCC for fraud, misrepresentation, and/or other violation of SCCC policies, procedures, or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
 - h) *Organizational Sanctions*: Deactivation, loss of recognition, loss of some or all privileges (including SCCC support and advisement) for a specified period of time.
 - i) *Other Actions*: In addition to or in place of the above sanctions, the SCCC may assign any other sanctions as deemed appropriate.

2.15.2. Employee Sanctions

Responsive actions for an employee who has engaged in harassment, discrimination, and/or retaliation include:

- a) *Warning – Verbal or Written*
- b) *Performance Improvement/Management Process*
- c) *Required Counseling*
- d) *Required Training or Education*
- e) *Probation*
- f) *Suspension with pay*
- g) *Suspension without pay*
- h) *Withholding salary increment*
- i) *Termination*
- j) *Other Actions*: In addition to or in place of the above sanctions, SCCC may assign any other sanctions as deemed appropriate.

2.16. Withdrawal or Resignation While Charges Pending

2.16.1. Students Withdrawal

If an allegation is pending against a student for violation of the Policy, SCCC may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

Should a student decide to not participate in the resolution process, the process proceeds absent the student's participation to a reasonable resolution.

Should a student Respondent permanently withdraw from SCCC, the resolution process ends, as SCCC no longer has disciplinary jurisdiction over the withdrawn student. However, SCCC will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged sex-based harassment or discrimination, and/or retaliation. The student who withdraws or leaves while the process is pending may not return to SCCC. Such exclusion applies to all campuses of SCCC. A hold will be placed on the student's ability to be readmitted. The student Respondent may also be barred from SCCC property and/or events.

If the student Respondent only withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student is not permitted to return to SCCC unless and until all sanctions have been satisfied.

During the resolution process, SCCC may put a hold on a responding student's transcript or place a notation on a responding student's transcript or dean's disciplinary certification that a disciplinary matter is pending.

2.16.2. Employees resignation

Should an employee Respondent resign with unresolved allegations pending, the resolution process ends as SCCC no longer has disciplinary jurisdiction over the resigned employee.

However, SCCC will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the alleged harassment or discrimination. The employee who resigns with unresolved allegations pending is not eligible for rehire with SCCC, and the records retained by the Title IX Coordinator will reflect that status.

All SCCC responses to future inquiries regarding employment references will comply with applicable state and federal disclosure requirements.

2.17. Appeals

Any party may file a written request for appeal ("Request for Appeal") provided that it is received by the Title IX Coordinator and the other party within ten (10) calendar days of the delivery of the Notice of Outcome to the party.

A party opposing the Request for Appeal may deliver a written Statement Opposing the Appeal Request which must be received by the Title IX Coordinator and the party requesting the appeal within five (5) calendar days from receipt of the Request for Appeal.

The Title IX Coordinator shall determine if the request meets the grounds for appeal.

2.17.1. Grounds for Appeal

Appeals are limited to the following grounds:

- a) Procedural irregularity that affected the outcome of the matter;
- b) New evidence that was not reasonably available at the time the Decision-maker's determination regarding responsibility or dismissal was made, that could affect the outcome

- of the matter;
- c) The Title IX Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter and such conflict or bias was not known at the time of the hearing;
 - d) The determination is based upon a material finding that uncontroverted hearing proofs show to be erroneous;
 - e) Where there is compelling reason to modify any sanction and such modification would not adversely impact the Complainant.

If the Request for Appeal does not meet one of the above grounds for appeal, that request will be denied by the Title IX Coordinator and the parties and their Advisors will be notified in writing of the denial and the rationale.

If the Title IX Coordinator determines that the Request for Appeal meets one or more grounds for appeal, the Title IX Coordinator will issue a Grant of Appeal for determination by the SCCC Vice President having disciplinary authority over the Respondent (“Appeal Authority”).

The Title IX Coordinator will transmit a copy of the Grant of Appeal to the party(ies) and their Advisors, and, when appropriate, the Investigators and/or the original Decision-maker.

If a Grant of Appeal is issued the other party shall have ten (10) calendar days from receipt of the Grant of Appeal within which to submit to the Title IX Coordinator a response to the portion of the appeal that was granted and/or a Request for Cross Appeal. All responses will be forwarded by the Title IX Coordinator to the Appeal Authority and to all parties. The Title IX Coordinator will review the Request for Cross Appeal and either denies or approves it based upon whether the Title IX Coordinator finds the cross appeal to meet one of the grounds for appeal. If approved, the Title IX Coordinator will forward a Grant of Cross Appeal to the Appeal Authority and to the party who initially requested an appeal, the Investigator(s) and/or original Decision-maker), as necessary.

Each party will have ten (10) calendar days from receipt of a Grant of Appeal or Grant of Cross Appeal to submit to the Appeal Authority and the opposing party their response to the Grant of Appeal or Grant of Cross Appeal.

Neither party may submit any new requests for appeal after expiration of 10 calendar days from the date of the Grant of Appeal or date of Cross Appeal, whichever last occurs, (“Closure of Appeal Filing”).

Upon Closure of the Appeal Filing the Title IX Coordinator will collect any additional information needed, the recording of the hearing, and all documentation regarding the approved grounds of appeal and the subsequent responses, and will transmit the same to the Appeal Authority. The Appeal Authority will render a decision in no more than 10 business days after the Closure of the Appeal Filing, barring exigent circumstances.

All appeal decisions will apply the “Clear and Convincing” standard.

2.17.2. Appeal Considerations

- a) Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- b) Appeals are not intended to provide for a full re-hearing (de novo) of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.
- c) The Appeal Authority will not substitute his/her judgment for that of the original Decision-maker merely because of disagreement with the finding and/or sanction(s).
- d) The Appeal Authority may consult with the Title IX Coordinator or client privileged consultation with SCCC attorney on questions of Procedure or rationale, if clarification is needed.
- e) Appeals granted based on new evidence should normally be remanded to the original Investigator and/or Decision-maker for reconsideration.
- f) Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing). A Respondent in a collective bargaining unit retains the right to grieve any sanction imposed by the Notice of Outcome or Notice of Appeal Outcome.
- g) The results of a remand to a Decision-maker cannot be appealed.
- h) In cases in which the appeal results in reinstatement to SCCC or resumption of privileges reasonable attempts will be made to restore the Respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

2.17.3. Notice of Appeal Outcome

A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision.

The Notice of Appeal Outcome will specify:

- a) the finding on each ground for appeal,
- b) any specific instructions for remand or reconsideration,
- c) any sanctions or modifications that may result that SCCC is permitted to share according to state or federal law,
- d) the rationale supporting the essential findings to the extent SCCC is permitted to share under state or federal law.

Transmittal of the Notice of Appeal Outcome will be made in writing and may be delivered by one or more of the following methods:

- a) in person,
- b) mailed to the local or permanent address of the parties as indicated in official institutional records,
- c) emailed to the parties' SCCC issued email or otherwise approved account.

Once mailed, emailed and/or received in-person, notice will be presumptively delivered.

The Notice of Appeal Outcome shall be final and non-appealable by student Respondents or Respondents who are managerial employees.

Imposition of discipline against employee Respondents in a collective bargaining unit may be grieved under the terms of the applicable Collective Bargaining Agreement to the extent not inconsistent with the Title IX Rule.

2.17.4. Sanctions Status During the Appeal

Any sanctions imposed as a result of the issuance of the Notice of Outcome are stayed during the appeal process except for emergency removals pursuant to Section 1.9 of the Procedure. Supportive measures may be reinstated, subject to the same supportive measure procedures above.

SCCC may place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions include suspension or termination of student status.

2.17.5. Long-Term Remedies/Other Actions

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop sex-based harassment, discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include, but are not limited to:

- a) Referral to counseling and health services
- b) Referral to the Employee Assistance Program
- c) Education to the individual and/or the community
- d) Permanent alteration of work arrangements for employees
- e) Provision of campus safety escorts
- f) Educational or working environment surveys
- g) Provision of accommodations
- h) Implementation of no contact limitations between the parties
- i) Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may be provided to the parties even if no Policy violation is found. When no Policy violation is found, the Title IX Coordinator will address any remedies required to ameliorate adverse academic impacts suffered by Respondent and to restore effective educational access.

SCCC will maintain the privacy of any long-term remedies/actions/measures, provided privacy does not impair SCCC's ability to provide these services.

2.17.6. Failure to Comply with Sanctions, Remedies or Responsive Actions

All Respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the final Decision-maker (including the Appeal

Authority).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from SCCC and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

SECTION 3

IMPLEMENTATION ACTIONS

3.1. Recordkeeping and Confidentiality

SCCC will maintain for a period of at least seven years the following as confidential records:

- a. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript;
- b. Any disciplinary sanctions imposed on the Respondent;
- c. Any remedies provided to the Complainant designed to restore or preserve equal access to the SCCC's education program or activity;
- d. Any appeal and the result therefrom;
- e. Any Informal Resolution and the result therefrom;
- f. Materials used to train Title IX Coordinators, Investigators, Decision-makers, and any person who facilitates an Informal Resolution process. SCCC will make these training materials available upon request for public inspection;
- g. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment or discrimination, including:
 - i. The basis for SCCC's response to allegations of sex-based harassment or discrimination;
 - ii. Any measures implemented to restore or preserve equal access to the SCCC's education program or activity;
 - iii. The reasons for denial of requests for supportive measures.

The identity of any individual reporting or complaining of discrimination or harassment on the basis of sex, and the identity of any individual reported to be the perpetrator of sex discrimination or harassment, will be kept confidential except as required to conduct any investigation, hearing or judicial proceedings arising under this Procedure or under Title IX, or except as required by law.

3.2. Disabilities Accommodations

SCCC is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the resolution process established by this Procedure. Anyone needing such accommodations or support should contact the Director of Accessibility Services or the HR Compliance Officer, who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process.

3.3. Prohibition of Discrimination on the Basis of Sex in Employment

SCCC prohibits discrimination in employment decisions on the basis of sex, including recruitment and hiring, and distinctions in rates of compensation and benefits.

SCCC will not administer any test or apply other criterion for any employment opportunity which has a disproportionately adverse effect on persons on the basis of sex. Employment actions and practices will not be based upon potential marital, parental, family status, or pregnancy.

Pre-employment inquiries will not include marital status or sex.

3.4. Retaliation Prohibited

This Procedure prohibits intimidation, threats, coercion or discrimination for the purpose of interfering with any right or privilege secured by Title IX or as retaliation for any report, complaint, testimony, or participation or refusal to participate in any proceeding under this Procedure.

Complaints alleging retaliation may be filed according to the grievance procedures for sex discrimination.

3.5. Revision of the Procedure

This Procedure supersedes any conflicting provisions of previous procedures addressing discrimination or harassment on the basis of sex and/or retaliation. The Title IX Coordinator will annually review and recommend updates to this Procedure. SCCC reserves the right to make changes to this Procedure as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to the Procedure that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary the Procedure materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require procedural alterations not reflected in this Procedure.

If government laws or regulations change, or court decisions alter the terms or practices set forth in this Procedure, this Procedure will be construed and applied in a manner that complies with the most recent government regulations or applicable judicial holdings.